

REMARKS

The following is responsive to the Patent Office Action mailed September 16, 2005. In this Office Action, the Examiner objected to the specification based upon the typographical error on page 14, line 12, of the specification, wherein the "O" of "of" was incorrectly capitalized. However, this amendment was made in the Preliminary Amendment mailed on December 11, 2003. Further, the Examiner objected to claims 5 and 19 to 23 because of informalities in paragraph 2 of the Office Action. Claims 5 and 21 are amended herein to overcome these objections. Thus, the Applicant respectfully submits that claims 1, 3 to 5 and 18 to 23 are in condition for allowance based upon the Office Action.

However, claims 9 to 13 and 24 were rejected by the Examiner as obvious from U.S. Patent No. 6,546,613 of *Donovan* under 35 U.S.C. § 103(a). It should be noted that the patent number in paragraph 4 of the Office Action is incorrect. Claims 11 and 24 are amended above to more clearly define over the die member disclosed in the *Donovan* patent and the Applicant respectfully submits that claims 11 and 24 now patentably define over the *Donovan* patent for the reasons set forth below.

The *Donovan* patent discloses an "Anvil Design for Rivet Setting Machine," wherein the die member shown in Figure 11 is specifically adapted to form the rivet and panel assembly shown in Figure 16. The die member shown in Figure 11 includes a central die post having a face 254 including a rounded outer edge 251 which is adapted to avoid piercing the panel portion 254 as shown in Figure 16. In his rejection of claims 9 to 13 and 24, the Examiner admits that the *Donovan* patent does not disclose (1) the included angle being either between 6 and 10 degrees or 5 and 12 degrees, (2) the continuous frustoconical side wall joining the end face in a radius surface having a radius of less than 0.04 inches or (3) the outer piercing surface of the die post being defined by an outer annular planar end surface and a frustoconical side wall extending tangentially from the semicircular bottom surface to the outer planar surface and an

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included angle of about 7 degrees. However, the Examiner then finds that it would have been obvious to one of ordinary skill in the art at the time the invention was made to include these features in the die member disclosed in the *Donovan* patent. The Applicant respectfully traverses this rejection because it is based solely upon hindsight. In fact, modifying the die member disclosed in the *Donovan* patent would be *contrary to the teaching of the Donovan patent*.

The Examiner further finds that the preamble of claims 11 and 24 have not been given any patentable weight because the recitation occurs in the preamble. In response to this finding, the Applicant has amended claims 11 and 23 to specifically recite the relation between the elements of the die member and the self-piercing element in the preamble of claims 11 and 24. That is, claims 11 and 24 now recite that the central die post has an outer diameter substantially equal to the inner diameter of the open free end of the tubular barrel portion and that the annular outer piercing surface of the central die post is "sharp" and thus "adapted to pierce a panel supported on the planar panel-supporting surface upon engagement by the free open end of the tubular barrel portion." Thus, claims 1 and 11 have been specifically amended to define (1) the relation between the elements of the die member and the self-piercing element, and (2) the relation between the die member and the self-piercing element. A die member having an "annular sharp outer piercing surface" is specifically contrary to the teaching of the *Donovan* patent and the *Donovan* patent is not capable of piercing a panel or forming a self-piercing element and panel assembly as disclosed in this application.

The Applicant would like to thank the Examiner for his indication of the allowance or allowability of claims 1, 3 to 5 and 18 to 23, particularly the Examiner's helpful suggestions regarding the amendment of claims 5 and 21. Further, the Applicant respectfully submits that claims 11 and 24 as amended patentably define over the prior art, including the *Donovan* patent.

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Therefore, the Applicant respectfully submits that this application is in condition for allowance and allowance is respectfully requested.

Although it is believed that no fee is due for the filing of this Amendment, the Commissioner is authorized to charge our Deposit Account No. 08-2789 for any additional fees or credit the account for any overpayments regarding this Amendment.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the attached Amendment is being facsimile transmitted to Examiner Jermie E. Cozart, U.S. Patent and Trademark Office, at facsimile number (571) 273-8300 on October 31, 2005.



Tracy L. Smith

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